

REMARKS

The Final Office Action dated October 16, 2006 has been reviewed, and the comments of the U.S. Patent Office have been considered. Claim 1 was rejected as obvious over Simard (US 5476592) in view of Collins (US 6716356). Claim 1 has been amended to require “no intervening pumping portions between the junction and the sterilizing filter.” The basis of the combination of Simard and Collins was that Collins taught forming a replacement fluid by flowing multiple fluids into a common replacement line which could be substituted for the replacement line of Simard 22 at a point upstream of the filter to result in the claimed invention. However, the teaching of Collins is not sufficient to provide for the claim as amended since Collins would require the different fluids (water and two kinds of concentrate) be metered before mixing. Since metering would be considered essential part of the teaching of Collins and since the teaching of the reference must be taken as a whole, Applicants propose that Collins does not teach to modify the apparatus of Simard to arrive at the claim as amended.

Claims 9 and 18 were also rejected as obvious over Simard (US 5476592) in view of Collins (US 6716356) in further view of Chevallet (US 5441636). Claim 9, which is not currently amended, recites: “said sterilizing filter being located in an in-line configuration such that all replacement fluid passing into said blood circuit portion must pass through a membrane thereof.” The combination of Collins and Simard is not sufficient to arrive at the recited structure since neither Collins nor Simard teaches locating the filter such that all replacement fluid passes through its membrane. In fact, in Collins, a person of ordinary skill might presume that the concentrate is supplied from infusible medicaments which would not necessarily require a filter. Further even if the concentrate of Collins were to be filtered, there is no teaching that all the replacement fluid pass through the filter in the common line (noting the language specifying that the common line in the replacement fluid portion).

Substantially the same argument may be made with respect to claim 18, which recites: “said replacement fluid line having an inline sterile filter between said input and output ends configured such that all fluid passing from said input end to said output end passes through a membrane effective to block pyrogens.”

New claim 26 requires “no intervening pumping portions between the connector leads and the sterilizing filter.” This recitation distinguishes the references for the same reasons argued above with reference to amended claim 1.

The dependent claims inherit the limitations of their respective parent claims and so distinguish the cited references for that reason at least, as well as for the additional recitation they contain.

CONCLUSION

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the undersigned to expedite prosecution of the application.

The Commissioner is hereby authorized by this paper to charge any fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-3840. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Respectfully submitted,

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